

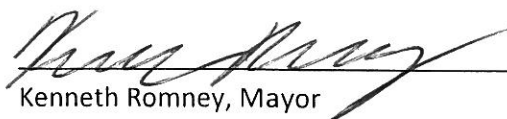
ORDINANCE 327-11

AN ORDINANCE AMENDING CHAPTER 5.12, BEER LICENSES AND REGULATIONS, TO INCLUDE A NEW CLASS OF LICENSE FOR SALE OF DRAFT BEER FOR ON-PREMISE CONSUMPTION AND TO SELL TAKE-OUT DRAFT BEER IN A RESEALABLE CONTAINER FOR OFF-PREMISE CONSUMPTION.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE MUNICIPALITY OF WEST BOUNTIFUL CITY, DAVIS COUNTY, STATE OF UTAH, THAT CHAPTER 5.12 OF THE WEST BOUNTIFUL MUNICIPAL CODE SHALL BE AMENDED AS INDICATED IN THE ATTACHED EXHIBIT A.

The above changes will take effect immediately upon adoption.

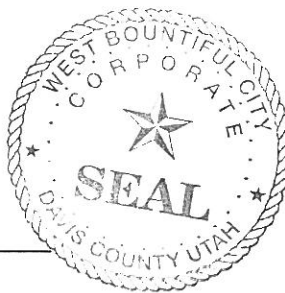
Adopted this 17th day of May, 2011.


Kenneth Romney, Mayor

ATTEST:



Heidi Voordeckers, City Recorder/Auditor



Voting by the City Council:	Aye	Nay
Councilmember Preece	<u> X </u>	<u> </u>
Councilmember Shaw	<u> X </u>	<u> </u>
Councilmember Bruhn	<u> X </u>	<u> </u>
Councilmember Baza	<u> X </u>	<u> </u>
Councilmember Tovey	<u> X </u>	<u> </u>

EXHIBIT A

Chapter 5.12 BEER LICENSES AND REGULATIONS

Sections:

5.12.010 Definitions.

5.12.020 License necessary to sell beer at retail.

5.12.030 Application for license.

5.12.040 License privileges.

5.12.050 License fees.

5.12.060 Beer must be purchased from licensed brewer or wholesaler.

5.12.070 Wholesalers must be licensed.

5.12.080 Permit from health department.

5.12.090 License not transferable.

5.12.100 Restrictions.

5.12.110 Inspection.

5.12.120 Denial or revocation of beer license.

5.12.010 Definitions.

The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

Alcoholic Beverage.

"**Beer**" and "**liquor**" as defined herein.

"**Beer**" means all products that contain 63/100 of one percent of alcohol by volume or one-half of one percent of alcohol by weight, but not more than four percent of alcohol by volume or 3.2 percent by weight, and are obtained by fermentation, infusion or decoction of any malted grain. Includes products known as "beer," "light beer," "malt liquor" or "malted beverages." Beer may or may not contain hops or other vegetable products.

"**Brewer**" means any person engaged in manufacturing beer, malt liquor or malted beverages.

"Licensed premises" means any room, house, building, structure or place occupied by any person licensed to sell beer on such premises under this chapter; provided, that in any hotel or other business establishment an applicant for Class B, C, or D license may designate a room or portion of a building of such business for the sale of beer, which portion so specifically designated in the application for a license and the license subsequently issued shall be the licensed premises.

"Liquor" means alcohol, or any alcoholic, spirituous, venous, fermented, malt or other liquid, or combination of liquids, a part of which is spirituous, vinous or fermented, and all other drinks, or drinkable liquids that contain more than one-half of one percent of alcohol by volume and is suitable to use for beverage purposes. "Liquor" does not include any beverage defined as a beer, malt liquor or malted beverage that has an alcohol content of less than four percent alcohol by volume.

"Retailer" means any person engaged in the sale or distribution of beer or liquor to the consumer.

"Sell, sale and to sell" means any transaction, exchange or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant or employee, unless otherwise defined in the Alcoholic Beverage Control Act or rules adopted pursuant thereto.

"Wholesaler" means any person, other than a licensed manufacturer, engaged in the importation for sale, or in the sale of beer, malt liquor, or malted beverages in wholesale or jobbing quantities to retailers.

5.12.020 License necessary to sell beer at retail.

It is unlawful for any person to sell beer at retail, in bottles, or other original containers, without a license therefor from the city council as hereinafter provided. A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licenses shall comply with the Utah Alcoholic Beverage Control Act and the regulations of the Alcoholic Beverage Control Commission, and every license shall recite that it is granted subject to revocation as hereinafter provided.

5.12.030 Application for license.

A. All applications for licenses authorized by this chapter shall be verified and filed with the city council and shall state the applicant's name in full, that he or she has complied with the requirements and possesses the qualifications specified in the Alcoholic Beverage Control Act, and if the applicant is a co-partnership, the names and addresses of all partners and if a corporation, the names and addresses of all officers and directors, and must be subscribed by the applicant, who must state under oath that the facts stated therein are true. Applicants must furnish such other information as and when the city council shall require.

B. The application for such license shall be referred to the chief of police for an investigation and report. The chief of police shall cause an investigation to be made to determine the criminal history, if any, of the applicant(s) and the location of the proposed licensed premises. The chief of police shall make a report to the city council within ten (10) days after receiving an

application or at the next regularly scheduled meeting of the council, whichever is later. Upon receiving the report, the city council shall act upon the application as it shall deem fair, just and proper in regard to granting or denying the same.

5.12.040 License privileges.

Retail licenses issued hereunder shall be of the following kinds:

A. Class A retail license, which shall entitle the licensee to sell beer on the licensed premises in original containers for consumption off the premises;

B. Class B retail license, which shall entitle the licensee to sell beer on the licensed premises in original containers for consumption on or off the premises;

C. Class C retail license, which shall entitle the licensee to sell beer on draft for consumption on the licensed premises;

D. Class D retail license, which shall entitle the licensee to sell beer on draft for consumption on the licensed premises; and to sell take-out draft beer in a re-sealable container of a volume permitted by state law for consumption off the premises. The container must be sealed at the time of purchase with a label that indicates the name of the licensee and the date and time of the purchase. (Ord. 327-11)

All licenses provided for herein shall expire on the thirty-first day of December unless canceled sooner. (Ord. 264-00)

5.12.050 License fees.

Each application for a beer license shall be accompanied by a license fee in an amount set periodically by resolution of the city council. These fees shall be deposited in the city treasury if the license is granted, and returned to the applicant if denied.

5.12.060 Beer must be purchased from licensed brewer or wholesaler.

It is unlawful for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any beer except that which he or she shall have lawfully purchased from a brewer or wholesaler licensed under the Utah Alcoholic Beverage Control Act.

5.12.070 Wholesalers must be licensed.

It is unlawful for any person to engage in the business of selling beer at wholesale within the corporate limits of the city without first obtaining a license therefore from the Utah Alcoholic Beverage Control Commission and paying such fees as are required therefor.

5.12.080 Permit from health department.

No license shall be issued until the applicant therefor shall have first procured from the Davis County health department a permit therefor, which permit shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage or distribution or sale of such beer complies with all health regulations of the county health department and of the state of Utah.

5.12.090 License not transferable.

No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued.

5.12.100 Restrictions.

No license shall be granted to sell beer in any theater, or within three hundred (300) feet of any church or school.

It is unlawful, a nuisance, and a basis for the revocation of a beer license, to cause or permit any of the following:

- A. To sell or otherwise supply beer to any person under the age of twenty-one (21) years, or to any person who is intoxicated or under the influence of an intoxicating beverage, or to sell beer for consumption on the premises unless so licensed, or to permit the drinking of liquor on such premises;
- B. To sell or otherwise furnish or dispose of beer, or to allow it to be drunk or consumed on the premises or to allow beer to remain on that portion of the premises open to customers, patrons, or members of the public after one a.m. and before ten a.m.;
- C. To allow dancing to any music, other than recorded music, between the hours of six a.m. Monday and twelve midnight Saturday on any premises where beer is sold, or to allow any dancing between the hours of 12:01 a.m. Sunday and six a.m. Monday on the premises where beer is sold, and it shall also be unlawful for any person to sell or furnish beer, or to purchase or consume beer on premises where dancing is permitted in violation of this chapter;
- D. To not keep the licensed premises brightly illuminated at all times while it is occupied for business, or for any booth, blind or stall to be maintained unless all tables, chairs and occupants are kept open to full view from the main floor at the entrance of such licensed premises;
- E. To violate any of the terms of the license issued, or to sell bottled or draft beer for consumption on the premises, or to permit any beer to be consumed on the premises unless the license so permits;
- F. To be nude in a premises licensed under this chapter any person whether a patron, employee or performer;
- G. To cause or do any act in or about a licensed premises contrary to the provisions of the Alcoholic Beverage Control Act;

H. To cause or do any act in or about a licensed premises contrary to federal, state or local criminal laws; or

I. To permit a minor under the age of twenty-one (21) years to enter a licensed premises or to purchase, possess or consume an alcoholic beverage therein. (Ord. 264-00 (part); prior code § 5-3-11)

5.12.110 Inspection.

All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the city, or the Utah State Department of Alcoholic Beverage Control, or the state or county health departments, and every licensee shall, at the request of said health department(s), furnish samples of beer offered for sale. (Prior code § 5-3-12)

5.12.120 Denial or revocation of beer license.

A. A beer license may be denied or revoked for any good cause reasonably related to the health, safety or general welfare of the residents of West Bountiful City, including the violation of any federal, state or local law (including the provisions of this chapter).

B. Unless the mayor shall otherwise direct, the decision to deny or revoke a business license shall be made by the city recorder. Any such decision shall be in writing, including a simple statement of the reasons therefor. The denial or revocation shall take effect after the written decision has been filed in the records of the city recorder and a copy thereof has been mailed to the applicant or license holder at the address listed in that person's application. If the applicant or license holder was present when the decision to revoke or deny was made, or is otherwise personally aware of the decision, the denial or revocation shall be effective when the written decision is filed in the records of the city recorder.

C. Any person aggrieved by a decision to deny or revoke a beer license may appeal that decision by filing a written notice of appeal with the city recorder within fifteen (15) days of the effective date of the denial or revocation.

D. An appeal of a decision to deny or revoke a beer license shall be conducted as provided in Section 2.60.010 of these ordinances.